

July 15, 2016

RECEIVED
FEDERAL ELECTION
COMMISSION

2016 AUG 1 PM 12:23

Special Operations OPSEC Education Fund
PO Box 1076
Alexandria VA 22313

OFFICE OF GENERAL
COUNSEL

Federal Election Commission
Office of Complaints Examination and Legal Administration
Attn: Mary Beth deBeau, Paralegal
999 E Street NW
Washington DC 20436

RE: MUR 7084

To whom it may concern:

Two of the allegations made by Ms. Clarkson deal with the Special Operations OPSEC Education Fund ("the Fund"). Before proceeding to respond to Ms. Clarkson's allegations, I briefly review the history of the Fund.

The Fund was incorporated as a tax-exempt Delaware corporation on June 21, 2012 pursuant to section 501(c)(4) of the Internal Revenue Code. The Fund files an annual information return on Form 990 with the IRS. Additionally, in 2012, the Fund engaged in Electioneering Communications, file required notices on Form 9 with the Commission. While all Form 9 notices were timely filed, the Fund consistently failed to list the person exercising control on Line 11. The Commission sent several requests for additional information requesting this information and the Fund amended its reports to disclose Delegate Taylor as the person exercising control within the response deadlines set by the Commission. At the time, Delegate Taylor served as president of the Fund.

In item III, Clarkson alleges that Delegate Taylor ignored federal law and failed to comply with the Act's reporting requirements, noting, as the Commission did in its requests for additional information in March, 2013, that the initial reports failed to list Delegate Taylor as the person exercising control. As Clarkson notes in her complaint, each report was amended to list Delegate Taylor promptly in response to the Commission's request. Without evidence, Clarkson claims that the omission was intentional. The Fund's prompt amendment of the reports shows that there was no intent to withhold that information from the public record.

Delegate Taylor did not sign the verification required on Form 9. While he was responsible for making the decision to make a disbursement from the Fund for the electioneering communication, he was not responsible for the content of the report. Michael Smith, listed as the custodian of records on each Form 9 was responsible for the reporting. As noted above, Smith's

failure to include Line 11 was inadvertent and the Fund corrected the error promptly after receiving the Commission's requests for additional information.

Clarkson's only evidence in support of her complaint comes from the public record created by the Fund's filings and the Commission's inquiries. Having created that record, it's clear that the Fund did not intend to withhold relevant information from the public record.

With respect to Clarkson's allegation that the Fund failed to file mandatory reports of receipts and disbursements for four years, please note that at no time did the Fund become a political committee or otherwise engage in any activity that required further reporting to the Commission. To the extent required, the Fund has provided information on contributions and disbursements on its annual information returns with the IRS.

In Item IV, Clarkson alleges that Delegate Taylor and the Fund failed to comply with fundraising guidelines, including reporting to the Commission. She cites as evidence solicitations for the Fund signed by Delegate Taylor in his role as president. As noted in response to item III, the Fund had no obligation to report to the Commission and it met its filing obligations with the IRS. Clarkson cites no authority, and the Fund can think of none, that would prohibit Delegate Taylor from soliciting contributions on behalf of the Fund. Civic activists and elected officials at all levels of government frequently solicit on behalf of social welfare organizations similar to the Fund.

Clarkson also alleges that the Fund actively solicited contributions for Scott Taylor for Congress, citing two posts on the Fund's Facebook page. The Fund has removed those posts from its page and at no time did it engage in any other solicitations on behalf of Scott Taylor for Congress.

As a 501(c)(4) organization, the Fund may engage in political activity so long as that activity is not the primary purpose of the organization. The Fund adheres to this rule and documents its adherence in its annual filings with the IRS. Two Facebook posts certainly do not show that the Fund's primary purpose has become political activity.

Further, the Facebook posts do not constitute a contribution to Scott Taylor for Congress under the Act. Delegate Taylor, as an officer of the Fund, could engage in express advocacy using its internet resources without making a contribution. The Commission's internet activity exemption covers this situation. *See* 11 CFR 100.94.

As such, the Commission should not find reason to believe that a violation has occurred and should take no action with respect to Ms. Clarkson's allegations against the Fund.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris. Marston", written in a cursive style.

Christopher M. Marston,
Counsel



FEDERAL ELECTION COMMISSION
900 E Street, NE
WASHINGTON, DC 20003

STATEMENT OF DISCLOSURE OF FINANCIAL
INTERESTS AND OTHER INFORMATION OF CANDIDATES FOR
FEDERAL OFFICE

NAME: John F. Kennedy

NAME OF OFFICE: U.S. House of Representatives

DATE: June 1, 1978

ADDRESS: 1000 Massachusetts Avenue, N.W.

Washington, D.C. 20001

TELEPHONE: OFFICE: 202-334-4444

FAX: 202-334-4444 (202) 334-4444

THE SIGNING CANDIDATE HAS READ THIS STATEMENT OF DISCLOSURE OF FINANCIAL INTERESTS AND OTHER INFORMATION AND HAS DECLARED IT TO BE TRUE AND CORRECT TO THE BEST OF HIS KNOWLEDGE AND BELIEF.

SIGNATURE: John F. Kennedy

DATE: June 1, 1978

WITNESSED BY: John F. Kennedy

DATE: June 1, 1978

STATEMENT OF DISCLOSURE OF FINANCIAL INTERESTS AND OTHER INFORMATION OF CANDIDATES FOR FEDERAL OFFICE. THIS STATEMENT IS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT OF 1971 (2 U.S.C. 3101-3105) AND THE FEDERAL ELECTION CAMPAIGN DISCLOSURE ACT OF 1976 (2 U.S.C. 4310-4315).

MAILING ADDRESS: 1000 Massachusetts Avenue, N.W.
Washington, D.C. 20001

TELEPHONE: 202-334-4444

E-MAIL: John.F.Kennedy@house.gov

This form is filed with the Federal Election Commission under the provisions of 2 U.S.C. 3101-3105 and 2 U.S.C. 4310-4315. The form is subject to the provisions of 2 U.S.C. 3101-3105 and 2 U.S.C. 4310-4315. The form is subject to the provisions of 2 U.S.C. 3101-3105 and 2 U.S.C. 4310-4315.

Rev. 10/76